

# Exhibit 407

*United States of America ex rel. Ven-A-Care of the Florida Keys, Inc., et al.*  
*v. Dey, Inc., et al.*, Civil Action No. 05-11084-PBS

**Exhibit to the August 28, 2009 Declaration of Sarah L. Reid in Support  
of Dey's Opposition to Plaintiffs' Motion for Partial Summary Judgment**

1 UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF MASSACHUSETTS

3 In re: PHARMACEUTICAL INDUSTRY )

4 AVERAGE WHOLESALE PRICE ) MDL No. 1456

5 LITIGATION )

6 \_\_\_\_\_ ) Civil Action No.

7 ) 01-12257-PBS

8 THIS DOCUMENT RELATES TO: )

9 United States of America, ex rel. )

10 Ven-A-Care of the Florida Keys, )

11 Inc., v. Abbott Laboratories, Inc., )

12 CIVIL ACTION NO. 06-CV-11337-PBS )

13  
14 VIDEOTAPE DEPOSITION OF

15 MATTHEW PERRI, III, Ph.D.

16 VOLUME II

17 Jones Day

18 1420 Peachtree Street, N.E.

19 Suite 800

20 Atlanta, Georgia 30309

21  
22 Taken on February 20, 2009

1 Q. And do you know that there were changes  
2 in the actual sales force itself?

3 A. By that --

4 MR. AZORSKY: Objection to form.

5 BY MS. REID:

6 Q. I mean, the people that were out in the  
7 field, the sales reps who were actually making  
8 the calls?

9 A. I know there were people who came and  
10 -- and left. I know there were new hires. I  
11 know there were promotions. There were a  
12 redistribution of duties, yes.

13 Q. You rely very heavily on -- on the  
14 launch documents?

15 A. Excuse me?

16 Q. The launch documents in your report --

17 A. Yes.

18 Q. -- for Albuterol, Cromolyn Sodium and  
19 Ipratropium Bromide?

20 A. Yes.

21 Q. Did you make an examination of the  
22 effectiveness of any marketing plan associated

1 with those launches?

2 MR. FAUCI: Objection to form.

3 MR. AZORSKY: Objection to form.

4 BY MS. REID:

5 Q. And by effectiveness, I mean, did they  
6 produce sales?

7 MR. AZORSKY: Objection to form.

8 A. I did not do any analysis of that, no.

9 BY MS. REID:

10 Q. Did you do any analysis of whether and  
11 to what extent the behavior that you have  
12 observed of marketing the spread led to any sales  
13 for Dey?

14 MR. FAUCI: Objection to form.

15 A. Yes, I think so.

16 BY MS. REID:

17 Q. How do you know that?

18 A. Well, if you look at the -- the -- the  
19 whole Florida WAC increase. I mean, that -- it's  
20 very clear from the record that sales were very  
21 positively impacted by that ordeal.

22 Q. That's one specific instance. Is there

1 to look at whether the -- Dey's marketing  
2 strategy led to any sales?

3 MR. FAUCI: Objection to form.

4 MR. AZORSKY: Objection to form.

5 A. The questions that were posed to me did  
6 not include any assessment of Dey's success using  
7 or applying their marketing plans. It was simply  
8 to evaluate what plan -- what behaviors those  
9 plans set forth, what behavior the company  
10 engaged in, and what the significance of those  
11 behaviors was from a marketing perspective.

12 BY MS. REID:

13 Q. Just a second.

14 Are you in any position to opine on  
15 whether Dey made any sales -- actually, made any  
16 sales as a result of the activity that you've  
17 defined as marketing the spread?

18 MR. FAUCI: Objection to form.

19 A. I think I need to ask you to clarify  
20 the made any sales. I -- I think you've  
21 distinguished for me earlier today that a sales  
22 call with a customer is not technically a sale

1 per se.

2 BY MS. REID:

3 Q. Okay.

4 A. So I have not undertaken any -- any  
5 study or analysis to determine if the impact of a  
6 sales visit resulted in an actual purchase by a  
7 customer.

8 However, I want to qualify that by  
9 saying that sales personnel reported the impact  
10 of their activities as influencing sales and  
11 increasing customer purchases.

12 Q. And those would be in documents that  
13 you've listed in your fact chronology and your  
14 reading log?

15 A. Yes.

16 Q. Okay. If Dey had a spread on its  
17 products as indeed all of generic manufacturers  
18 did at that point in time, but didn't market it,  
19 do you agree that it is possible and indeed  
20 likely that Dey would have made sales where the  
21 customer looked at the spread and decided that  
22 they would buy Dey's products because they